

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A.L.K., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES KENNETH KEMPAINEN,

Respondent-Appellant,

and

LISA MARIE TARGAC,

Respondent.

UNPUBLISHED

May 22, 2003

No. 242062

Wayne Circuit Court

Family Division

LC No. 00-387941

Before: Whitbeck, C.J., and White and Donofrio, JJ.

PER CURIAM.

Respondent-appellant appeals as of right the trial court's order terminating his parental rights to his child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j).¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

¹ The trial court's order also terminated the parental rights of respondent Lisa Marie Targac, the mother of A.L.K. Targac has not appealed the order. The trial court did not terminate the parental rights of either respondent-appellant or Targac to two other children.

The trial court did not clearly err in finding that petitioner established by clear and convincing evidence the existence of one or more statutory grounds for the termination of respondent-appellant's parental rights. The child was removed from the home and placed in foster care after respondent Targac assaulted a sibling with a knife. Respondent-appellant was unable to care for the child because he was enrolled in an inpatient substance abuse treatment program at the time. Subsequently, he was incarcerated for violating his parole. At the time of the permanent custody hearing the child had been in foster care for more than two years. The evidence produced at the permanent custody hearing established that upon his release from prison, respondent-appellant would be required to obtain suitable housing, maintain a legal source of income, and address any remaining substance abuse issues. Respondent-appellant had arranged to return to work for his former employer and to participate in outpatient substance abuse counseling, but did not have independent housing for himself or the child. Respondent-appellant could not estimate how much time he would require until he could provide proper care and custody for the child.

The trial court did not clearly err in finding that termination of respondent-appellant's parental rights was warranted on the grounds that the conditions that led to the adjudication continued to exist and were not likely to be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), that respondent-appellant failed to provide proper care or custody for the child and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), and that it was likely that the child would be harmed if returned to respondent-appellant's custody, MCL 712A.19b(3)(j). The evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *Trejo, supra*.

Affirmed.

/s/ William C. Whitbeck
/s/ Helene N. White
/s/ Pat M. Donofrio